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असाधारण

EXTRAORDINARY

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PART II — Section 1

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on 1.12.2004.

BILL NO. 90 OF 2004

A Bill further to amend the Banking Regulation Act, 1949 and the Deposit Insurance and Credit Guarantee Corporation Act, 1961.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Banking Regulation (Amendment) and Miscellaneous Provisions Act, 2004.

Short title and
commence-
ment.

(2) Save as otherwise provided in this Act, the provisions of this Act shall be deemed to have come into force on the 24th day of September, 2004.

CHAPTER II

AMENDMENTS TO THE BANKING REGULATION ACT, 1949

Amendment of
section 56 of
Act 10 of 1949.

2. In Part V of the Banking Regulation Act, 1949 (hereafter in this Chapter referred to as the principal Act), in the provisions of the principal Act as applied to, or in relation to, co-operative societies, by section 56,—

(I) in section 5 of the principal Act, as amended by sub-clause (i) of clause (c) of the said section 56,—

(A) after clause (ccii), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of March, 1966, namely:—

‘(cciiia) “co-operative society” means a society registered or deemed to have been registered under any Central Act for the time being in force relating to the multi-State co-operative societies, or any other Central or State law relating to co-operative societies for the time being in force;’;

(B) after clause (cciii), the following clauses shall be inserted and shall be deemed to have been inserted with effect from the 1st day of March, 1966, namely:—

‘(cciiia) “multi-State co-operative bank” means a multi-State co-operative society which is a primary co-operative bank;

(cciiib) “multi-State co-operative society” means a multi-State co-operative society registered as such under any Central Act for the time being in force relating to the multi-State co-operative societies but does not include a national co-operative society and a federal co-operative;’;

(C) in clause (ccvii), the words “co-operative society” shall be omitted and shall be deemed to have been omitted with effect from the 1st day of March, 1966;

(II) after section 22 of the principal Act, as amended by clause (o) of the said section 56, the following section shall be inserted, namely:—

“22A. Notwithstanding anything contained in any law or, judgment delivered or decree or order of any court made,—

(a) no licence, granted to a multi-State co-operative society by the Reserve Bank under section 22, which was subsisting on the date of commencement of the Banking Regulation (Amendment) and Miscellaneous Provisions Act, 2004, shall be invalid or be deemed ever to have been invalid merely by the reason of such judgment, decree or order;

(b) every licence, granted to a multi-State co-operative society by the Reserve Bank under section 22, which was subsisting on the date of commencement of the Banking Regulation (Amendment) and Miscellaneous Provisions Act, 2004, shall be valid and be deemed always to have been validly granted in accordance with law;

(c) a multi-State co-operative society whose application for grant of licence for carrying on banking business was pending with the Reserve Bank on the date of commencement of the Banking Regulation (Amendment) and Miscellaneous Provisions Act, 2004 shall be eligible to carry on banking business until it is granted a licence in pursuance of section 22 or is, by a notice in writing notified by the Reserve Bank that the licence cannot be granted to it;”;

Validation of
licences
granted by
Reserve Bank
to multi-State
co-operative
societies.

(III) for clause (zaa) of the said section 56, the following clauses shall be substituted, namely:—

‘(zaa) after section 36AA of the principal Act, the following sections shall be inserted, namely:—

“36AAA. (1) Where the Reserve Bank is satisfied that in the public interest or for preventing the affairs of a multi-State co-operative bank being conducted in a manner detrimental to the interest of the depositors or of the multi-State co-operative bank or for securing the proper management of the multi-State co-operative bank, it is necessary so to do, the Reserve Bank may, for reasons to be recorded in writing, by order, supersede the Board of directors of such multi-State co-operative bank for a period not exceeding five years as may be specified in the order, which may be extended from time to time, so, however, that total period shall not exceed five years.

Supersession of Board of directors of a multi-State co-operative bank.

(2) The Reserve Bank may, on supersession of the Board of directors of the multi-State co-operative bank under sub-section (1) appoint an Administrator for such period as it may determine.

(3) The Reserve Bank may issue such directions to the Administrator as it may deem appropriate and the Administrator shall be bound to follow such directions.

(4) Upon making the order of supersession of the Board of directors of a multi-State co-operative bank,—

(a) the chairman, managing director and other directors as from the date of supersession of the Board shall vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of the Multi-State Co-operative Societies Act, 2002 or this Act or any other law for the time being in force, be exercised and discharged by or on behalf of the Board of directors of such a multi-State co-operative bank or by a resolution passed in general meeting of such co-operative bank, shall, until the Board of directors of such co-operative bank is reconstituted, be exercised and discharged by the Administrator appointed by the Reserve Bank under sub-section (2):

Provided that the power exercised by the Administrator shall be valid notwithstanding that such power is exercisable by a resolution passed in the general meeting of such multi-State co-operative bank.

(5) (a) The Reserve Bank may constitute a committee of three or more persons who have experience in law, finance, banking, administration or accountancy to assist the Administrator in discharge of his duties.

(b) The committee shall meet at such times and places and observe such rules of procedure as may be specified by the Reserve Bank.

(6) The salary and allowances to the Administrator and the members of the committee constituted by the Reserve Bank shall be such as may be specified by the Reserve Bank and be payable by the concerned multi-State co-operative bank.

(7) On and before expiration of period of supersession of the Board of directors as specified in the order issued under sub-section (1), the Administrator of the multi-State co-operative bank shall call the general meeting of the society to elect new directors.

(8) Notwithstanding anything contained in any other law or in any contract, or bye-laws of a multi-State co-operative bank, no person shall be entitled to claim any compensation for the loss or termination of his office.

(9) The Administrator appointed under sub-section (2) shall vacate office immediately after the Board of directors of the multi-State co-operative society has been constituted.

Order of winding up of multi-State co-operative bank to be final in certain cases.

36AAB. Where a multi-State co-operative bank, being an eligible co-operative bank, has been registered under section 13A of the Deposit Insurance and Credit Guarantee Corporation Act, 1961, as an insured bank, and subsequently — 47 of 1961.

(a) in pursuance of a scheme prepared with the previous approval of the Reserve Bank under section 18 of the Multi-State Co-operative Societies Act, 2002, an order sanctioning a scheme of compromise and arrangement or reorganisation or reconstruction has been made; or 39 of 2002.

(b) on requisition by the Reserve Bank, an order for winding up of the multi-State co-operative bank has been made under section 87 of the Multi-State Co-operative Societies Act, 2002; or 39 of 2002.

(c) an order for the supersession of the Board and the appointment of an Administrator therefor has been made under section 36AAA,

such order for sanctioning the scheme of compromise and arrangement or reorganisation or reconstruction under clause (a) or the winding up of the multi-State co-operative bank under clause (b) or an order for the supersession of the Board and the appointment of an Administrator under clause (c) shall not be liable to be called in question in any manner.

Reimbursement to Deposit Insurance Corporation by liquidator or transferee bank.

36AAC. Where a multi-State co-operative bank, being an insured bank within the meaning of the Deposit Insurance and Credit Guarantee Corporation Act, 1961, is wound up and the Deposit Insurance Corporation has become liable to the depositors' of the insured bank under sub-section (1) or sub-section (2) of section 16 of that Act, the Deposit Insurance Corporation shall be reimbursed by the liquidator or such other person in the circumstances, to the extent and in the manner provided in section 21 of that Act." 47 of 1961.

(zab) in section 36AD, sub-section (3) shall be omitted;";

(IV) in clause (zb) of the said section 56, for the word, figures and letter "Part IIA", the words, figures and letters "Part IIA except sections 36AAA, 36AAB and 36AAC" shall be substituted.

CHAPTER III

AMENDMENTS TO THE DEPOSIT INSURANCE AND CREDIT GUARANTEE CORPORATION ACT, 1961

3. In the Deposit Insurance and Credit Guarantee Corporation Act, 1961, in section 2,—
Amendment of section 2 of Act 47 of 1961.

(a) in clause (q), the words “co-operative society” shall be omitted and shall be deemed to have been omitted with effect from the 1st day of March, 1966;

(b) in clause (r), for the words “primary co-operative bank”, the words “co-operative society”, “primary co-operative bank” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of March, 1966.

CHAPTER IV

REPEAL AND SAVING

4. (1) The Banking Regulation (Amendment) and Miscellaneous Provisions Ordinance, 2004 is hereby repealed.
Ord. 3 of 2004. Repeal and saving.

(2) Notwithstanding such repeal, anything done or any action taken under the Banking Regulation Act, 1949 and the Deposit Insurance and Credit Guarantee Corporation Act, 1961, as amended by the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act.
10 of 1949.
47 of 1961.

STATEMENT OF OBJECTS AND REASONS

In view of large deposits and working funds of co-operative banks, certain provisions of the Banking Regulation Act, 1949 were made applicable, by the Banking Laws (Application to Co-operative Societies) Act, 1965, to the State co-operative banks, the central co-operative banks and primary non-agricultural banks.

2. The Hon'ble Supreme Court in the Apex Co-operative Bank of Urban Bank of Maharashtra & Goa Ltd. vs. Maharashtra State Co-operative Bank Ltd. and others held that the Reserve Bank of India (RBI) by virtue of its power under section 22 of the Banking Regulation Act, 1949 cannot grant a licence to any co-operative bank unless it is a State co-operative bank or a central co-operative bank or a primary co-operative bank and it would be necessary that a declaration under the National Bank for Agriculture and Rural Development Act, 1981 be first obtained. It further held that the State Government could not have declared the appellant, i.e., the Apex Co-operative Bank of Urban Bank of Maharashtra & Goa Ltd., being a co-operative society registered under the Multi-State Co-operative Societies Act, 1984 as a State co-operative bank. Therefore, the Hon'ble Supreme Court also directed Reserve Bank of India to forthwith revoke the banking licence granted to the Appellant.

3. In view of the specific directions given by the Hon'ble Supreme Court in the aforesaid case, the RBI cancelled with effect from the 30th October, 2003, the licence issued to the Apex Co-operative Bank of Urban Bank of Maharashtra & Goa Ltd. There are thirty-four other multi-State co-operative banks (MSCBs), which have been granted licence under the provisions of Banking Regulation Act, 1949. In view of the judgment in the above case, doubts have been expressed about the legality of the licences issued to other MSCBs.

4. In order to remove the doubts about the legality of the licences issued to other MSCBs and to resolve any difficulties which might arise in the future, it had, therefore, become necessary to urgently carry out necessary amendments in the Banking Regulation Act, 1949 and the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (DICGC Act) to make specific legal provision with retrospective effect, for the validity of the licences issued to other MSCBs by the RBI and also to enable the RBI to issue in future the licences to the Multi-State Co-operative Societies to carry on banking business and make the multi-State co-operative banks eligible for insurance of their deposits under the Deposit Insurance Credit Guarantee Corporation Act, 1961. This will protect the interests of small depositors.

5. Since Parliament was not in session and it had become necessary to take immediate action to provide for the above matters, the Banking Regulation (Amendment) and Miscellaneous Provisions Ordinance, 2004 was promulgated by the President on the 24th September, 2004, *inter alia*, to —

(a) provide that the licences granted to the existing multi-State co-operative banks by the RBI shall be deemed to have been validly granted;

(b) enable the RBI to issue in future the licences to co-operative societies registered under the Multi-State Co-operative Societies Act, 2002 to carry on the banking business;

(c) make provisions for supersession of Board of directors of a multi-State co-operative bank in certain cases;

(d) provide that an order sanctioning a scheme of compromise and arrangement or reorganisation or reconstruction or winding up or supersession of the Board of winding up of multi-State co-operative bank to be final in certain cases;

(e) make these multi-State co-operative banks as "eligible co-operative bank" under section 2(gg) of the DICGC Act so that their deposits can be insured by the

Deposit Insurance and Credit Guarantee Corporation established under section 3 of that Act;

(f) make provision for reimbursement to the Deposit Insurance and Credit Guarantee Corporation by liquidator or transferee bank to the extent and in the manner provided in section 21 of the DICGC Act.

6. The Bill seeks to replace the aforesaid Ordinance.

NEW DELHI;
The 16th November, 2004.

P. CHIDAMBARAM.

BILL NO. 87 OF 2004

A Bill further to amend the Contempt of Courts Act, 1971.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. This Act may be called the Contempt of Courts (Amendment) Act, 2004.

Short title.

2. In the Contempt of Courts Act, 1971, for section 13, the following section shall be substituted, namely:—

Substitution of
new section
for section 13.

“13. Notwithstanding anything contained in any law for the time being in force,—

Contempts
not punishable
in certain
cases.

(a) no court shall impose a sentence under this Act for a contempt of court unless it is satisfied that the contempt is of such a nature that it substantially interferes, or tends substantially to interfere with the due course of justice;

(b) the court may permit, in any proceeding for contempt of court, justification by truth as a valid defence if it is satisfied that it is in public interest and the request for invoking the said defence is bona fide.”

70 of 1971.

STATEMENT OF OBJECTS AND REASONS

The existing provisions of the Contempt of Courts Act, 1971 have been interpreted in various judicial decisions to the effect that truth cannot be pleaded as a defence to a charge of contempt of court.

2. The National Commission to Review the Working of the Constitution has also in its report, *inter alia*, recommended that in matters of contempt, it shall be open to the Court to permit a defence of justification by truth.

3. The Government has been advised that the amendments to the Contempt of Courts Act, 1971 to provide for the above provision would introduce fairness in procedure and meet the requirements of article 21 of the Constitution.

4. Section 13 of the Contempt of Courts Act, 1971 provides certain circumstances under which contempt is not punishable. It is, therefore, proposed to substitute the said section, by an amendment.

5. The Contempt of Courts (Amendment) Bill, 2003 was introduced in the Lok Sabha on the 8th May, 2003 and the same was referred to the Department-related Parliamentary Standing Committee on Home Affairs for examination. The Hon'ble Committee considered the said Bill in its meeting held on the 2nd September, 2003. However, with the dissolution of the 13th Lok Sabha, the Contempt of Courts (Amendment) Bill, 2003 lapsed. It is proposed to re-introduce the said Bill with modifications of a drafting nature.

6. The Bill seeks to achieve the above objects.

H. R. BHARDWAJ.

NEW DELHI;
The 18th October, 2004.

G. C. MALHOTRA,
Secretary-General.